

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
No. 5:17-CV-47-GCM

|                        |   |       |
|------------------------|---|-------|
| KIMBERLY A. HIPP,      | ) |       |
|                        | ) |       |
| Plaintiff,             | ) |       |
|                        | ) |       |
| v.                     | ) | ORDER |
|                        | ) |       |
| NANCY A. BERRYHILL,    | ) |       |
| Acting Commissioner of | ) |       |
| Social Security,       | ) |       |
|                        | ) |       |
| Defendant.             | ) |       |
|                        | ) |       |

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$17,205.00. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$5,000.00 and will return to Plaintiff the amount awarded under the EAJA. Plaintiff's counsel has been previously awarded \$9,300.00 in administrative 406(a) fees.

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee. After considering the factors identified by the Fourth Circuit in *Mudd v. Barnhart*, 418 F.3d 424, 428 (4th Cir, 2005), the Court finds the fees requested to be reasonable.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$17,205.00, and refund to Plaintiff the smaller award between this amount and the EAJA award.

Signed: February 12, 2019



Graham C. Mullen  
United States District Judge

